IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 409 (S/S) of 2007

Harender Singh,
S/o late Sri Trilok Singh,
R/o Village – Fapaniyana, Patti Coparakot,
Tehsil – Thelisen,
District – Pauri Garhwal **.....Petitioner.**

Versus

1. State of Uttarakhand through Secretary, Education, Dehradun,
2. Director of Education, Uttarakhand, Dehradun.
3. Joint Director of Education, Garhwal Region, Pauri Garhwal.
4. District Education Officer Pauri Garhwal.
5. Principal, Government Higher Secondary School, Bhagwati Talia, Beerokhal, Pauri Garhwal.

.....Respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri D.C.S. Rawat, learned counsel for the petitioner and Sri N.P. Sah, learned Standing Counsel for the State of Uttarakhand on behalf of respondents.

By means of this writ petition, petitioner has prayed for the following relief:

i. Issue a writ, order or direction in the nature of Mandamus commanding the respondent authorities to appoint the petitioner under Dying in Harness Rules in respondents department in suitable post.

ii. Pass any other and further orders, which this Hon'ble Court may deem fit and proper in the circumstances of the case.

iii. Award the cost of writ petition to the petitioner.

The stand of the petitioner is that father of the petitioner, who was working as Daftri in Government Higher Secondary School, Bhagwati, Talia, Beeronkhal, Pauri Garhwal, died on 27.05.1998. Since petitioner was minor at the time of his father's death, the mother of the petitioner moved application on 14.04.2003 for providing appointment to her son as he become major by the time. The said application was forwarded by the Principal of the School to the Competent Authority for providing appointment to the petitioner under Dying in Harness Rules on 27.05.2003.

Since no action was taken by the respondents on the application, petitioner was constrained to file present writ petition.

Respondents have filed counter affidavit. The only stand taken by the respondents for not providing appointment to the petitioner under Dying in Harness Rules is that application was moved by the petitioner after five years. It is stated by the respondents in para 5 that the contents of paras 2 to 8 of the writ petition are wrong, misconceived and are denied, in view of the reply already given in the preceding paras of this affidavit. It is further submitted that the alleged letter dated 14.04.2003 written by the petitioner's mother was not received in the office of District Education Officer, Pauri Garhwal and the letter dated 27.05.2003 was received in the officer of District Education Officer on 01.07.2003.

Annexure no. 2 to the writ petition, is a letter written by Principal of the School to the District Education Officer on 27.05.2003, wherein he has forwarded the various documents along with application for providing appointment under Dying in Harness Rules.

It is not disputed that the letter was forwarded by the Principal on 27.05.2003. It is also not disputed that petitioner's father was died on 27.05.1998, thus, the application moved by the petitioner was certainly within time and the stand taken by the respondents is absolutely incorrect.

In view of the above, respondents are directed to take decision on the application of the petitioner in accordance with law for providing him appointment under Dying in Harness Rules considering the application well within time, the decision shall be taken by the respondents within a period of six weeks from the date of production of certified copy of this order.

With this direction, writ petition as well as all the pending applications are disposed of. No order as to costs.

(M.M. Ghildiyal, J)

December 11, 2007
SKS